

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
FLORENCE DIVISION

|                               |   |                                    |
|-------------------------------|---|------------------------------------|
| Daniel McNeil, Jr.,           | ) |                                    |
|                               | ) |                                    |
| Plaintiff,                    | ) |                                    |
|                               | ) | Civil Action No.: 4:07-542-TLW-TER |
| vs.                           | ) |                                    |
|                               | ) |                                    |
| Sgt. NFN August; and          | ) |                                    |
| Daniel B. Causey, III, Judge, | ) |                                    |
|                               | ) |                                    |
| Defendants.                   | ) |                                    |
| _____                         | ) |                                    |

**ORDER**

Plaintiff, Daniel McNeil, Jr., (“plaintiff”) brought this civil rights action under 42 U.S.C. § 1983. (Doc. #1).

This matter now comes before this Court for review of the Report and Recommendation (“the Report”) filed by United States Magistrate Judge Thomas E. Rogers, III, to whom this case had previously been assigned. (Doc. #9). In the Report, Magistrate Judge Rogers recommends that the District Court dismiss the complaint as to defendant Causey without prejudice and without issuance and service of process. (Doc. #9). The plaintiff was put on notice that he may file objections to the Report. The plaintiff filed a response in which he consented to the dismissal as to defendant Causey. (Doc. #13).

In conducting review of the Report and the filing of the plaintiff, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections...The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a *de novo* determination of those portions of the report or

specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the Report and Recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case, the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F. Supp. 137, 138 (D.S.C. 1992)

(citations omitted).

In light of the Wallace standard, the Court has carefully reviewed the Magistrate Judge's Report and Recommendation. For the reasons articulated by the Magistrate Judge, it is hereby **ORDERED** that the Magistrate Judge's Report and Recommendation is **ACCEPTED** (Doc. #9) and the action is dismissed as to the defendant Causey without prejudice and without issuance and service of process.

**IT IS SO ORDERED.**

S/Terry L. Wooten  
Terry L. Wooten  
United States District Judge

September 25, 2008  
Florence, South Carolina